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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,590	03/29/2004	Dale C.H. Nevison		2812
39434	7590	08/09/2006		
GREGORY T. ZALECKI 12900 HALL ROAD SUITE 400 STERLING HEIGHTS, MI 48313				
			EXAMINER CHEVALIER, ALICIA ANN	
			ART UNIT 1772	PAPER NUMBER

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/811,590

Applicant(s)

NEVISON, DALE C.H.

Examiner

Alicia Chevalier

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 8-11 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-7, 15 and 16 is/are allowed.
- 6) ☒ Claim(s) 1-4, 12-14, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **RESPONSE TO AMENDMENT**

1. Claims 1-18 are pending in the application, claims 8-11 are withdrawn from consideration.
2. Amendments to the specification and claims, filed on May 9, 2006, have been entered in the above-identified application.

## ***REJECTIONS***

3. **The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

### ***Claim Rejections - 35 USC § 102***

4. Claims 1, 2 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Vaux (U.S. Patent No. 4,991,834).

Vaux discloses a mat (*col. 4, line 52*) comprising a mat base having a top surface and a bottom surface, a plurality of long legs (*col. 6, line 52*) perpendicularly attached to the bottom surface of the mat base with is deemed to be for resiliently supporting the mat base and a plurality of short legs perpendicularly (*col. 6, line 48*) attached to the bottom surface of the mat base deemed to be for supporting the mat base and modifying the resiliency of the mat. Also, the long legs and the short legs are deemed capable of providing a selected mat compression when a load is applied to the top surface of the mat, since the mat comprises the claimed long and short legs. The mat further comprises a plurality of ribs wherein each rib connects a pair of legs and

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wherein the length perpendicular to the mat of each rib is approximately the length of the legs to which it is attached, but not longer than either of the legs to which it is attached (*col. 6, line 57 and figures 4b, 4c and 6a*).

The limitation “for preventing the mat from becoming embedded within a floor grating which it sits” is deemed to be a statement with regard to the intended use and is not further limiting in so far as the structure of the product is concerned. In article claims, a claimed intended use must result in a ***structural difference*** between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. MPEP § 2111.02.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (U.S. Patent No. 2,810,672).

Taylor discloses a mat (*title*) comprising a mat base having a top surface and a bottom surface, a plurality of long legs (*col. 2, line 72*) perpendicularly attached to the bottom surface of the mat base with is deemed to be for resiliently supporting the mat base and a plurality of short legs perpendicularly (*col. 3, line 1*) attached to the bottom surface of the mat base deemed to be for supporting the mat base and modifying the resiliency of the mat. Also, the long legs and the short legs are deemed capable of providing a selected mat compression when a load is applied to the top surface of the mat, since the mat comprises the claimed long and short legs.

6. Claims 3 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Rope et al. (U.S. Patent No. 5,527,128).

Rope discloses a mat (*ground cover, title*) comprising a mat base having a top surface and a bottom surface and a plurality of channels subdividing the mat top surface into mat segments (*figure 2*), wherein each said channel has a floor and lateral wall surface and wherein the lateral

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wall surface has a drain opening permitting drainage from the top surface of the mat to below the bottom surface of the mat (*figure 3*). The top surface of the mat is deemed to cover the drain opening (*figure 3*).

7. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Van Der Pyl (U.S. Patent No. 1,619,773).

Van Der Pyl discloses a mat comprising a mate base having a top surface and a bottom surface, a plurality of grit trenches embedded within the top surface of the mat, wherein each grit trench has two ends and each end has a retention lip forming a dam for retaining adhesive and grit and grit bonded into the trenches by an adhesive (*col. 2, lines 58-62 and figure 2*).

#### ***Claim Rejections - 35 USC § 103***

8. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Pyl (U.S. Patent No. 1,619,773).

Van Der Pyl fails to disclose the claimed shape of the grit trenches.

It would have been an obvious matter of design choice to change the shape of the grit trenches, since a modification would have involved a mere change in size of the grit trench. A change in size or shape is generally recognized as being within the level of ordinary skill in the art, absent unexpected results. MPEP 2144.04 (I) and (IV).

#### ***Allowable Subject Matter***

9. Claims 5-7, 15 and 16 are allowed.

***ANSWERS TO APPLICANT'S ARGUMENTS***


10. Applicant's arguments in the response filed May 9, 2006 regarding the previous rejections of record have been considered but are moot since the rejections have been withdrawn.

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ad  
8/7/06

  
ALICIA CHEVALIER  
PRIMARY EXAMINER